

## **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Application of Commnet of Nevada, LLC to expand its )  
designation as an Eligible Telecommunications Carrier ) Docket No. 10-01011  
in the state of Nevada pursuant to NAC 704.680461. )  
\_\_\_\_\_ )

At a general session of the Public Utilities  
Commission of Nevada, held at its offices  
on March 31, 2010.

**PRESENT:** Chairman Sam A. Thompson  
Commissioner Rebecca D. Wagner  
Commissioner Alaina Burtenshaw  
Assistant Commission Secretary Nancy Krassner

### **COMPLIANCE ORDER**

The Public Utilities Commission of Nevada ("Commission") makes the following  
findings of fact and conclusions of law:

1. On January 19, 2010, Commnet of Nevada, LLC ("Commnet") filed an  
Application with Public Utilities Commission of Nevada ("Commission"), designated as Docket  
No. 10-01011, to expand its designation as an Eligible Telecommunications Carrier ("ETC") in  
the state of Nevada pursuant to Nevada Administrative Code ("NAC") 704.680461. Commnet is  
a registered Commercial Mobile Radio Service Provider in Nevada.

2. The Application was filed pursuant to Chapters 703 and 704 of the Nevada  
Revised Statutes and the NAC, including but not limited to, NAC 704.680461 and Section  
214(e) of the Telecommunications Act of 1996.

3. On January 27, 2010, the Commission issued a "Notice of Application to Expand  
Designation as an Eligible Telecommunications Carrier and Notice of Pendency of Hearing"  
("Notice"), in accordance with state law and the Commission's Rules of Practice and Procedure,  
indicating that interested and affected parties should file written comments, petitions for leave to

DOCUMENT REVIEW AND APPROVAL ROUTING

PREPARED BY: Bing Young

DRAFT ON 4/1/10 AT 3:00 PM

REVIEWED & APPROVED BY: \_\_\_\_\_ DATE \_\_\_\_\_

MANAGER / ASST. ( \_\_\_\_\_ ) \_\_\_\_\_

☒ CHIEF / COUNSEL one 3/31/10

SECRETARY / ASST. SEC. \_\_\_\_\_

\_\_\_\_\_

intervene, or notices of intent to participate as a commenter by February 17, 2010. The Notice further provided for a hearing date of March 18, 2010, but indicated that if the Commission had not received any adverse comments regarding the Application, petitions for leave to intervene, or requests for hearing by February 17, 2010, the hearing would be cancelled.

4. The Regulatory Operations Staff ("Staff") of the Commission participates as a matter of right, pursuant to Nevada Revised Statutes ("NRS") 703.301.

5. On February 17, 2010, Century Tel of the Gem State, Inc. d/b/a/ CenturyLink filed a "Notice of Intent to Participate as a Commenter and Initial Comments". There were no petitions for leave to intervene or additional comments filed in response to the Commission's Notice.

6. On February 17, 2010, Staff filed Comments, requesting the Commission proceed with the hearing.

7. On February 19, 2010, the Commission issued a Procedural Order setting forth the dates for the filing of testimony.

8. On March 3, 2010, Commnet filed a letter indicating that a Stipulation had been entered between Staff and Commnet resolving all matters in the case, and therefore Commnet would not be filing testimony.

9. On March 3, 2010, the parties filed a Stipulation with the Commission executed by Commnet and Staff, attached hereto as Attachment No. 1 and incorporated herein by reference.

10. The Commission finds the proposed Stipulation to be fair, reasonable, and in the public interest. Therefore, the Commission accepts the Stipulation filed March 3, 2010.

THEREFORE, based upon the foregoing findings and conclusions, it is ORDERED that:

1. The Stipulation filed on March 3, 2010, and attached hereto as Attachment No. 1, is ACCEPTED.

2. The Application of Commnet of Nevada, LLC, designated as Docket No. 10-01011, to expand its designation as an Eligible Telecommunications Carrier in the state of Nevada pursuant to NAC 704.680461, is GRANTED, as modified by the Stipulation.

3. In accordance with the agreements set forth in the Stipulation, Commnet of Nevada, LLC shall satisfy the following compliances:

- a. Commnet of Nevada, LLC will submit an advertising plan for the supported services it provides in its proposed expanded ETC service area to the Regulatory Operations Staff and the Attorney General's Bureau of consumer Protection within 60 days of designation; and
- b. Commnet of Nevada, LLC will file an advisory tariff with the Commission within 60 days of an order designating Commnet of Nevada, LLC an ETC providing information regarding all rates, terms and conditions, and proposed local calling areas; and
- c. Commnet of Nevada, LLC will provide the Consumer Complaint Resolution Division of the Regulatory Operations Staff with a regulatory contact to whom to address any complaints within 60 days of an order designating Commnet of Nevada, LLC as an ETC.

4. Failure to comply with the compliance items in this Order may subject Commnet of Nevada, LLC to administrative fines pursuant to NRS 703.380 and/or revocation of the underlying relief granted as appropriate.

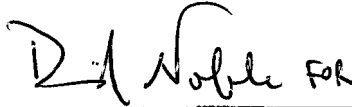
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5. Any errors in the drafting of this Order may be corrected without further proceedings by this Commission.

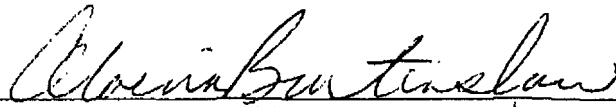
By the Commission,



SAM A. THOMPSON, Chairman



REBECCA D. WAGNER, Commissioner



ALAINA BURTENSHAW, Commissioner and  
Presiding Officer

Attest:

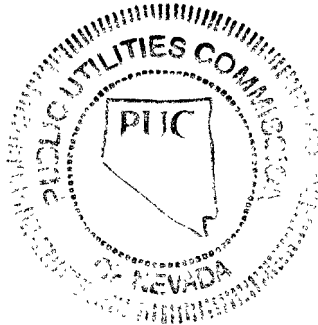


NANCY KRASSNER

Assistant Commission Secretary

Dated: Carson City, Nevada

(SEAL) 4/6/10



## ATTACHMENT 1

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In the Matter of Commnet of Nevada, LLC's  
Application to Expand Designation as an  
Eligible Telecommunications Carrier for  
Purposes of Receiving Rural and Non-Rural  
Federal Universal Service Support.

Docket No. 10-01011

STIPULATION

This agreement is made and entered into between the Applicant, Commnet of Nevada, LLC ("Commnet") and the Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada (the "Commission") (collectively, the "Parties").

WHEREAS, pursuant to Chapters 703 and 704 of the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC"), including but not limited to, NAC 704.680461 and Section 214(e) of the Communications Act of 1934, as amended, Commnet filed an Application with the Commission, designated as Docket No. 10-01011, on January 19, 2010, requesting approval to expand its designation as a competitive Eligible Telecommunications Carrier ("ETC") in certain rural and non-rural areas of Nevada for purposes of qualifying for federal universal service support ("ETC Application");<sup>1</sup>

WHEREAS, the Commission issued a public notice of this matter in accordance with state law and the Commission's Rules of Practice and Procedure;

The proposed areas for which Commnet seeks designation as an ETC include the entire service area of the following small-scale providers of last resort in Nevada: Oregon-Idaho Utilities, Inc. d/b/a Humboldt Telephone Company ("Humboldt"); Citizen Telecommunications Company of Nevada d/b/a Frontier Communications of Nevada ("Frontier"); CenturyTel of the Gem State, Inc. d/b/a CenturyLink ("CenturyLink"); and Filer Mutual Telephone Company ("Filer Mutual"). Commnet also seeks to be designated as an ETC in a portion of the non-rural territory of Nevada Bell Telephone Company d/b/a AT&T Nevada and AT&T Wholesale ("AT&T"). Together, all of the above areas will be referred to as the "Proposed Designated Area" in this Stipulation. A map of Commnet's Proposed Designated Area is attached hereto as Attachment C.

1 WHEREAS, Staff participates as a matter of right, and no other persons filed Petitions  
2 for Leave to Intervene;

3 WHEREAS, CenturyTel of the Gem State, Inc. d/b/a CenturyLink ("CenturyLink") filed  
4 a Notice of Intent to Participate as a Commenter and Initial Comments in Docket No. 10-01011  
5 on February 17, 2010;

7 WHEREAS, Staff filed Comments on February 17, 2010 in this docket and requested a  
8 hearing indicating that Staff was continuing to review and analyze the information submitted by  
9 Commnet regarding Staff's discovery questions and it needed additional time to analyze new  
10 information from Commnet regarding its ETC Application;

12 WHEREAS, the Commission issued a Procedural Order on February 19, 2010, setting  
13 forth testimony deadlines;

14 WHEREAS, NAC 704.7862 requires CMRS providers in Nevada to register with the  
15 Commission;

17 WHEREAS, Commnet is registered as a CMRS provider with the Commission and  
18 holds registration CMRS 88, issued in Docket No. 08-11010;<sup>2</sup>

19 WHEREAS, CMRS providers are not required to obtain a certificate of public  
20 convenience and necessity ("CPCN") from the Commission;

22 WHEREAS, NAC 704.680461(1)(a) requires that an ETC affirm that it holds a CPCN  
23 from the Commission;

24 WHEREAS, pursuant to NAC 704.0097, Commnet requested a deviation from NAC  
25 704.680461(1)(a) so that Commnet would not be obligated to hold a CPCN issued by the  
26 Commission in order to be designated as an ETC;

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28 <sup>2</sup> Commnet's CMRS registration was attached as Exhibit G to its ETC Application.



1 WHEREAS, pursuant to 47 U.S.C. § 214(e)(1), any "common carrier" is eligible for  
2 ETC status;

3 WHEREAS, a CMRS provider is considered a common carrier under 47 U.S.C.  
4 § 332(a)(1), unless otherwise determined by the Federal Communications Commission  
5 ("FCC");  
6

7 WHEREAS, Commnet represents that it is a common carrier as required by Section  
8 214(e)(1) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214(e)(1);  
9

10 WHEREAS, Commnet offers telecommunications to the public or to such classes of  
11 users as to be effectively available directly to the public;

12 WHEREAS, Commnet holds all necessary FCC licenses and is duly authorized to  
13 provide its CMRS service in the areas in which it requests designation as an ETC;

14 WHEREAS, based upon the foregoing, the Parties agree the request for deviation from  
15 NAC 704.680461(1)(a) is for just cause, is in the public interest, is not contrary to statute, and  
16 should be granted;  
17

18 WHEREAS, Section 214(e)(1) of the Act, 47 C.F.R. § 54.201(d) and NAC  
19 704.680461(1)(b) provide that carriers designated as ETCs shall, throughout their service area,  
20 offer the services that are supported by federal universal service support mechanisms either  
21 using their own facilities or a combination of their own facilities and resale of another carrier's  
22 services;  
23

24 WHEREAS, the services which are supported by the federal Universal Service Fund  
25 ("USF") pursuant to 47 C.F.R. § 54.101(a) are voice grade access to the public switched  
26 network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-  
27 party service or its functional equivalent, access to emergency services, access to operator  
28

1 services, access to interexchange service, access to directory assistance, and toll limitation for  
2 qualifying low-income consumers;

3 WHEREAS, Commnet will offer all of the supported services required of federal USF  
4 ETC recipients;<sup>3</sup>  
5

6 WHEREAS, to provide the supported services required of federal USF ETC recipients,  
7 Commnet states that it plans only to use its own facilities in order to meet its obligation under  
8 Section 214(e) of the Act;<sup>4</sup>  
9

10 WHEREAS, Commnet will provide voice grade access to the public switched network  
11 through interconnection arrangements with local telephone companies at bandwidth between  
12 300 and 3,000 hertz as required by 47 C.F.R. § 54.101(a)(1);

13 WHEREAS, Commnet will offer a variety of rate plans that will provide local usage  
14 consistent with 47 C.F.R. § 54.101(a)(2);  
15

16 WHEREAS, Commnet will provide customers with dual tone multi-frequency  
17 ("DTMF") signaling to facilitate the transportation of signaling throughout its network by using  
18 out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally  
19 equivalent to DTMF signaling;

20 WHEREAS, Commnet will provide customers with single party service, as that term is  
21 defined in 47 C.F.R. § 54.101;  
22

23 WHEREAS, Commnet will provide customers 911 access to emergency services and  
24 will continue to provide E-911 access to customers in compliance with all FCC rules applicable  
25 to CMRS carriers;  
26

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27 <sup>3</sup> See ETC Application at 8-10.

28 <sup>4</sup> Commnet stated that it will consider providing service to a requesting customer via resale if necessary.

1 WHEREAS, Commnet will provide customers access to operator services in the  
2 traditional manner by dialing "0";

3 WHEREAS, Commnet has interconnection agreements with interexchange carriers,  
4 which enable Commnet to provide customers access to interexchange service;

5  
6 WHEREAS, Commnet will provide customers access to directory assistance services by  
7 dialing "411" or "555-1212";

8 WHEREAS, Commnet will provide toll blocking service for Lifeline and Link-Up  
9 customers if designated an ETC by the Commission;

10  
11 WHEREAS, to further demonstrate Commnet's capability and intent to offer and  
12 *provide the supported services, Commnet will follow the 6-step service extension policy*  
13 *required set forth in a FCC Report and Order,<sup>5</sup> which states that if a customer cannot be served*  
14 *by Commnet's existing facilities, Commnet will provide service within a reasonable period of*  
15 *time, if service can be provided at reasonable cost, by modifying or replacing the requesting*  
16 *customer's equipment, deploying a roof-mounted antenna or other equipment, adjusting the*  
17 *nearest cell tower, adjusting network or customer facilities, reselling services from another*  
18 *carrier's facilities to provide service, or employing, leasing or constructing an additional cell*  
19 *site, cell extender, repeater, or other similar equipment;<sup>6</sup>*

20  
21  
22 WHEREAS, if, after the above referenced steps, the customer cannot be served,  
23 Commnet will notify the customer and provide Staff with an annual report of how many  
24 requests for service could not be filled;

25  
26  
27 <sup>5</sup> Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, 6380 (2005).

28 <sup>6</sup> ETC Application at 12-13.

1       WHEREAS, Commnet agrees to allow Staff to verify that federal USF support was used  
2 for the provisioning of supported services, including constructing facilities to improve signal  
3 strength and serve consumers in the Proposed Designated Area;

4       WHEREAS, based on the foregoing, Staff's review supports Commnet's statements that  
5 it will offer all of the supported services required of USF ETC recipients;

6       WHEREAS, Section 214(e)(1) of the Act and 47 C.F.R. § 54.201(d) provide that  
7 carriers designated as ETCs shall, throughout their service area, advertise the availability of  
8 such services and the charges therefore using media of general distribution;

9       WHEREAS, pursuant to 47 U.S.C. § 214(e)(1)(B) and 47 C.F.R. § 54.201(d)(2),  
10 Commnet will ensure that the availability of the supported services it offers and the charges for  
11 such supported services will be advertised using media of general distribution throughout the  
12 Proposed Designated Area;<sup>7</sup>

13       WHEREAS, pursuant to NAC 704.680461(1)(c), Commnet will ensure that, at least  
14 once every three months, the availability of each of the supported services detailed above, as  
15 well as the rates and charges applicable to those services, are advertised through prominent  
16 presentation in media of general distribution throughout the Proposed Designated Area;

17       WHEREAS, Commnet will promote the availability of Lifeline and Link-Up benefits  
18 throughout its service area in advertising and will ensure that community health, welfare, and  
19 employment offices are provided with information about Lifeline and Link-Up to ensure that  
20 this information reaches those most likely to qualify for Lifeline and Linkup benefits;

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      <sup>7</sup>       *Id.* at 10-11.

1       WHEREAS, if Commnet's ETC Application is granted, Commnet will submit an  
2 advertising plan for the supported services it provides in its Proposed Designated Area to  
3 Commission Staff and the BCP within 60 days of designation;  
4

5       WHEREAS, based on the foregoing, Staff believes Commnet will satisfy its obligation  
6 to advertise the availability of supported services, including Lifeline and Linkup services;  
7

8       WHEREAS, in conformance with the FCC's requirements for ETC designation,  
9 Commnet has provided information to assert its ability to remain functional in emergency  
10 situations;<sup>8</sup>

11       WHEREAS, Commnet's ETC Application provides that in the event of power or other  
12 types of failure, the cell sites are equipped with alarms that will alert Commnet's technicians;  
13

14       WHEREAS, Commnet's ETC Application provides that its sites will be monitored  
15 remotely at Commnet's Network Operations Center 24 hours a day and seven days a week  
16 should there be a total communications failure on any portion of the Commnet network serving  
17 Nevada;

18       WHEREAS, Commnet's ETC Application provides information about redundancy on its  
19 network, as well as information about how Commnet will be able to handle spikes in wireless  
20 traffic due to emergencies or special events;  
21

22       WHEREAS, based upon the foregoing, Commnet has provided the necessary  
23 commitments to Staff about its ability to remain functional in emergency situations, including  
24 verification that Commnet's network is reinforced by the presence of battery and generator  
25 backups, capable of running indefinitely in the event of a major electrical outage;  
26  
27

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28       <sup>8</sup> *Id.* at 13-15.

1       WHEREAS, in conformance with the FCC's requirements for ETC designation,  
2 Commnet has provided specific information about consumer protections;

3       WHEREAS, Commnet states that it will adhere to the CTIA-The Wireless Association's  
4 Consumer Code for Wireless Service which, pursuant to 47 C.F.R. § 54.202(a)(3), demonstrates  
5 compliance with applicable FCC consumer protection and service quality standards (see  
6 Attachment B to this Stipulation);<sup>9</sup>

7  
8       WHEREAS, Commnet will submit any ETC-related consumer complaints to the  
9 Commission's Division of Consumer Complaint Resolution and will provide the Division with  
10 a regulatory contact to whom to address any complaints;

11  
12       WHEREAS, based upon the foregoing, Commnet has provided the necessary  
13 commitments to Staff regarding consumer protections;

14       WHEREAS, Section 214(e)(2) of the Act provides that ETC designations shall be made  
15 for a "service area" designated by the state commission;

16  
17       WHEREAS, in areas served by a rural telephone company (called small-scale providers  
18 of last resort in Nevada), "service area" means the incumbent local exchange carrier study area  
19 unless the FCC and states establish a different definition of service area, a process referred to as  
20 redefinition;

21  
22       WHEREAS, because Commnet's ETC Application proposed to serve the entire service  
23 area of the rural telephone companies, Commnet is not seeking any redefinition;

24       WHEREAS, although Commnet will serve only portions of AT&T's service area, no  
25 redefinition is required since AT&T is not a rural telephone company;

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      <sup>9</sup> *Id.* at 15.

1 WHEREAS, to support a finding that Commnet's ETC Application is in the public  
2 interest, Commnet has provided evidence that its designation will provide improved coverage  
3 and service quality to the Proposed Designated Area;<sup>10</sup>  
4

5 WHEREAS, Commnet specifically commits to provide service to consumers at their  
6 residences upon reasonable request, and to use its support to upgrade and expand its network to  
7 provide improved coverage and capacity;

8 WHEREAS, in areas where signal strength is weak and where no business plan supports  
9 construction of new facilities, Commnet will use federal USF support to construct facilities to  
10 improve signal strength and serve consumers with the same top quality mobile service that  
11 urban consumers enjoy today;  
12

13 WHEREAS, Staff's investigation verifies that with federal high-cost support, Commnet  
14 proposes to operate, maintain and expand the communications infrastructure to improve signal  
15 coverage, enhance wireless call quality, and provide more advanced services to consumers in  
16 the Proposed Designated Areas, including third generation ("3G") wireless services;  
17

18 WHEREAS, Staff's investigation verifies that Commnet's designation as an ETC in the  
19 Proposed Designated Area will provide wireless service to unserved or underserved areas,  
20 including portions of Nevada where there is no wireless service existing currently or where the  
21 wireless signal provided in the area is poor, resulting in poor reception and significant amount  
22 of dropped calls;  
23

24 WHEREAS, given the build-out to unserved or underserved areas, Staff's review also  
25 supports Commnet's statements that investment of high-cost money in the Proposed Designated  
26 Area will lead to significant health and safety benefits for consumers in those areas, as well  
27

28 <sup>10</sup> See *id.* at 18. As stated in Commnet's ETC Application, the FCC has enunciated a framework of five factors for consideration in ETC designations when determining whether the designation is in the public interest.

1 provide an additional competitive choice in areas where previously no or limited wireless  
2 service was offered;

3 WHEREAS, to support a finding that Commnet's ETC Application is in the public  
4 interest, Commnet provides evidence that the grant of its Application will impose no burden on  
5 the federal Universal Service Fund;  
6

7 WHEREAS, in May 2008, the FCC placed an interim cap on universal service high-cost  
8 support to competitive ETCs and under the interim cap, total annual competitive ETC support  
9 was capped on a state-by-state basis;  
10

11 WHEREAS, as a result of the FCC's interim cap, Staff agrees that the expanded ETC  
12 designation area of Commnet will have no effect on the size of the Universal Service Fund so  
13 long as the competitive ETC interim cap remains in place;<sup>11</sup>

14 WHEREAS, Staff also agrees that Commnet's designation would not result in "cream-  
15 skimming" (i.e., targeting low-cost portions of a rural ILEC's service area in which  
16 uneconomically high levels of support are available) because Commnet states that it will  
17 provide service in the entire service area of each of the corresponding ILECs territory for its  
18 Proposed Designated Area;  
19

20 WHEREAS, Staff has investigated Commnet's five-year build out plan to ensure that  
21 Commnet intends to use its high-cost funds to serve the Proposed Designated Area;  
22  
23

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24  
25 <sup>11</sup> Given the interim cap for competitive ETC support, Commnet's designation could affect the amount of  
26 federal high-cost support received by other competitive ETCs serving in Nevada where Commnet's Proposed  
27 Designated Area overlaps with the designated area of other competitive ETCs in Nevada. However, Staff has  
28 determined that the only competitive ETC that likely will be affected is Verizon Wireless, which now holds the  
ETC designation formerly held by Western Wireless and ALLTEL Corporation. As part of Verizon Wireless'  
merger with ALLTEL Corporation, Verizon Wireless agreed to reduce the amount of federal high cost support it  
will receive, as well as to divest certain wireless licenses, including in Nevada. Given the FCC's directive for  
Verizon Wireless to reduce its federal high cost support, and since Verizon Wireless did not file comments or  
attempt to intervene in this docket, Staff's concerns regarding the impact on Verizon Wireless are minimal.



1 WHEREAS, Staff's investigation verifies that as set forth in the ETC Application and in  
2 the five-year build out plan confidentially filed with Staff in response to discovery that  
3 Commnet's ETC designation will bring improved coverage and service quality to the Proposed  
4 Designated Area;

5  
6 WHEREAS, Commnet's stated redacted five-year build out plan is being filed as  
7 Attachment A to this Stipulation and a confidential version of the five-year build out plan with  
8 attachments is being submitted to the Commission under seal;

9  
10 WHEREAS, Commnet has agreed that it will update Staff bi-annually regarding the  
11 progress of meeting its five-year build out plan and any changes or modifications to the plan, as  
12 well as provide Staff with an explanation of the differences between the build-out plan and the  
13 actual spending that has occurred for each calendar year;

14  
15 WHEREAS, in response to CenturyLink's Comments, Commnet has committed that it  
16 will contribute to both the Nevada Universal Service Fund and the Nevada program for  
17 telecommunications services for the speech and hearing impaired, as required;

18  
19 WHEREAS, in response to CenturyLink's Comments, Commnet commits that it will  
20 comply with NRS 707.480 by working closely with the Department of Health and Human  
21 Services, and consistent with the requirements set forth in NRS 707.480(1), within 7 days after  
22 determining that a person located in its ETC service area is an eligible customer, Commnet will  
23 notify the eligible customer that he can receive Lifeline or Link Up services, or both, from  
24 Commnet;<sup>12</sup>

25  
26  
27 <sup>12</sup> Commnet will ensure that the notification includes: (1) information about Commnet's Lifeline and Link  
28 Up services, including, without limitation, and any options or responsibilities that the eligible customer may have  
related to the receipt of those services; and (2) a self-addressed, postage paid response card which an eligible  
customer can return to Commnet to decline the services.

1 WHEREAS, in response to CenturyLink's Comments as to whether Commnet's  
2 proposed service will fill a genuine customer need, Commnet and Staff agree that Commnet's  
3 service in the Proposed Designated Area will provide wireless service to some of the most rural,  
4 insular, and high cost areas of Nevada, including areas that are unserved or underserved;

5  
6 WHEREAS, in response to CenturyLink's Comments as to whether Commnet has a plan  
7 in place for retail service, Staff has reviewed and finds acceptable Commnet's plan for  
8 providing retail service within the Proposed Designated Area, including Commnet's specific  
9 plan offerings, as well as information regarding the location of Commnet's local technicians to  
10 ensure that any technical issues are resolved promptly.  
11

12 WHEREAS, Commnet commits to fulfilling the annual reporting obligations pursuant to  
13 NRS 704.68871(2) that apply to competitive suppliers;

14 WHEREAS, Commnet will file an advisory tariff with the Commission within 60 days  
15 of an order designating Commnet as ETC providing information regarding all rates, terms and  
16 conditions, and proposed local calling areas;

17  
18 WHEREAS, the Parties agree that Commnet meets all applicable state and federal  
19 requirements and is entitled to be designated an ETC in the Proposed Designated Area for  
20 purposes of receiving federal universal service support;

21  
22 WHEREAS, the Parties believe this Stipulation is in the public interest; and

23 WHEREAS, the Parties have agreed to resolve the outstanding issues as set forth herein.

24 NOW THEREFORE, based upon the mutual covenants and obligations reflected in this  
25 Stipulation, it is hereby agreed by and between the Parties as follows:

26 1. The Parties agree to the following:  
27  
28

- 1 (a) The Application filed by Commnet in Docket No. 10-01011 should be approved,  
2 designating Commnet of Nevada, LLC as a competitive Eligible  
3 Telecommunications Carrier for the entire study area of Oregon-Idaho Utilities,  
4 Inc. d/b/a Humboldt Telephone Company ("Humboldt"), Citizen  
5 Telecommunications Company of Nevada d/b/a Frontier Communications of  
6 Nevada ("Frontier"), CenturyTel of the Gem State, Inc. d/b/a CenturyLink  
7 ("CenturyLink"), and Filer Mutual Telephone Company ("Filer Mutual"), and  
8 portions of the study area of Nevada Bell Telephone Company d/b/a AT&T  
9 Nevada and AT&T Wholesale ("AT&T"), for purposes of qualifying for federal  
10 universal service support.  
11  
12 (b) The Parties agree the request for deviation from NAC 704.680461(1)(a) should  
13 be granted in this specific case because it is for just cause, is in the public interest  
14 and is not contrary to statute;  
15  
16 (c) The Parties agree it is in the public interest to grant ETC status to Commnet in  
17 Nevada for purposes of receiving federal universal service support;  
18  
19 (d) The Parties agree that the Commission's order should find that Commnet has met  
20 the high-cost certification requirement and that Commnet is, therefore, entitled to  
21 begin receiving high-cost support as of the date it receives a grant of ETC status  
22 in order that funding will not be delayed; and  
23  
24  
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26  
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1 (e) The Parties agree that in accordance with the FCC's rules, the Commission  
2 should file an initial high-cost certification with USAC and the FCC within 60  
3 days of the effective date of an order designating Commnet as an ETC.<sup>13</sup>  
4

5 2. In accordance with the agreements set forth in Section 1 above, the Parties agree  
6 that Commnet shall satisfy the following compliances:

7 (a) Commnet will submit an advertising plan for the supported services it provides  
8 in its proposed expanded ETC service area to Commission Staff and the BCP  
9 within 60 days of designation; and  
10

11 (b) Commnet will file an advisory tariff with the Commission within 60 days of an  
12 order designating Commnet as ETC providing information regarding all rates,  
13 terms and conditions, and proposed local calling areas; and  
14

15 (c) Commnet will provide the Consumer Complaint Resolution Division with a  
16 regulatory contact to whom to address any complaints within 60 days of an order  
17 designating Commnet as ETC.

18 3. In accordance with the agreements set forth in Section 1 above, the Parties agree  
19 that Commnet shall satisfy the following directives:

20 (a) If a customer within Commnet's Proposed Designated Service Area cannot be  
21 served after the committed steps (as set forth above) have been taken to attempt  
22 to serve that customer, Commnet will notify the customer and provide Staff with  
23 an annual report of how many requests for service could not be filled;  
24  
25

26 <sup>13</sup> A newly designated ETC is entitled to receive support as of the date of its designation, provided that the state  
27 commission files a certification letter with USAC and the FCC within 60 days of the effective date of the grant.  
28 See 47 C.F.R. § 54.314. The letter must reference CC Docket 96-45 and certify that the company will use support  
for the provision, maintenance and upgrading of facilities and services for which the support is intended, pursuant  
to 47 U.S.C. § 254(e), and it should specify that the certification covers the time period beginning with the effective  
date of its designation.

1 (b) Commnet will submit any ETC-related consumer complaints to the  
2 Commission's Division of Consumer Complaint Resolution;

3 (c) Commnet will update Staff bi-annually regarding the progress of meeting its  
4 five-year build out plan and any changes or modifications to the plan, as well as  
5 provide Staff with an explanation of the differences between the build-out plan  
6 and the actual spending that has occurred for each calendar year;  
7

8 (d) Commnet agrees to allow Staff to verify via discovery or other reasonable  
9 means of auditing that federal USF support was used for the provisioning of  
10 supported services, including constructing facilities to improve signal strength  
11 and serve consumers with the same top quality mobile service; and  
12

13 (e) Commnet will fulfill the annual reporting obligations pursuant to NRS  
14 704.68871(2) that apply to competitive suppliers.  
15

16 4. Based upon the foregoing, if the Compliances and/or Directives are not met  
17 based upon Staff's review, Staff will raise the issue with Commnet and afford Commnet 30  
18 days to respond to Staff's concern; and if Staff's concern is not resolved by Commnet, Staff will  
19 seek relief from the Commission, which may include the filing a complaint pursuant to NAC  
20 704.680467 seeking revocation of Commnet's ETC designation.  
21

22 5. This Stipulation is made upon the express understanding that it constitutes a  
23 negotiated settlement. It is not severable. In the event this Stipulation is not approved by the  
24 Commission without changes, it shall be deemed withdrawn without prejudice to any claims or  
25 contentions which may have been made by any Party, and it shall not be admissible as evidence  
26 or in any way described or discussed in any proceeding hereafter.  
27  
28

1           6.     This Stipulation represents a compromise of the Parties. Except as set forth  
2 herein, the provisions of this Stipulation shall not be construed as or deemed to be a precedent  
3 by any party or the Commission with respect to any issue, principle, or interpretation or  
4 application of law and regulations, for any purpose or in connection with any proceeding before  
5 a court of law, or any state or federal government regulatory body.  
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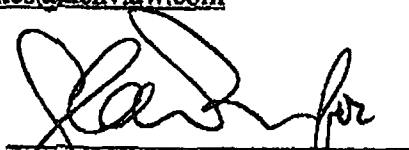
1  
2 7. This Stipulation may be executed in counterparts and via facsimile.  
3  
4

5 **REGULATORY OPERATIONS STAFF**  
6

7 By:  Dated: 3-3-2010  
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15 **COMMNET OF NEVADA, LLC**  
16

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**REDACTED EXHIBIT A**



# **CONFIDENTIAL INFORMATION REDACTED**

## **Exhibit A**

### **Commnet Five-Year Network Improvement/Upgrade Plan**

Commnet Wireless, LLC and its wholly owned subsidiary, Commnet of Nevada, LLC (collectively, "Commnet"), hereby submit a five-year plan for the use of federal high-cost support, consistent with 47 C.F.R. § 54.202(a)(ii).

Section 47 C.F.R. § 54.202(a)(ii) of the FCC's rules requires that applicants for ETC status:

Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

Commnet believes that the five-year plan detailed below is consistent with the requirements set forth in 47 C.F.R. § 54.202(a)(ii) and demonstrates that its intent to provide the supported services in the entire area for which it seeks designation is a substantive commitment. While Commnet believes that service improvements are needed in every wire center included within its proposed ETC designation area, the high-cost USF support Commnet expects to receive if ETC application is granted will not support new cell site buildout in every wire center. However, Commnet may use additional internally-generated capital to further enhance the proposed improvements within its proposed ETC designation area.

## **I. DESCRIPTION OF COMMNET'S PLAN**

Commnet's network plan covers a period of five years (2011-2015) that will commence following the Commission's timely filing of a certification to the FCC that Commnet has been designated and is qualified to receive support in its proposed ETC service area. The attached plan sets forth the proposed use of federal high-cost support to improve network coverage, signal quality and capacity within its designated ETC service area. Each of the proposed new cell sites will improve network coverage, enhance signal quality and expand capacity in the area.

Commnet proposes to use high-cost support for all appropriate purposes, including, but not necessarily limited to, the construction of new cell sites; the operation and maintenance of new and existing cell sites; and upgrades in switching infrastructure necessary to support the new cell sites. Commnet will use its high-cost universal service support to expand, improve and operate its network in its proposed ETC service area, and it will report its progress on those plans to the Commission, as required, each year prior to being recertified for the continued receipt of support. All of Commnet's proposed improvements will be made to serve in and around the rural and non-rural wire centers identified in Exhibit B of Commnet's ETC application (filed Jan. 19, 2010; Docket No. 10-01011) and. The proposed improvements will benefit all residents of these areas, as well as visitors to the region.

The specific parameters of this five-year plan are subject to change, depending on a number of factors, including, but not limited to, the amount of universal service support that Commnet actually receives, changes in federal rules for providing high-cost support to competitive ETCs, changes in the amount of support provided to ILECs in the areas where Commnet is an ETC, and changes in market demand. Nonetheless, the network improvement plan provided demonstrates Commnet's commitment to use federal high-cost universal service support to make measurable improvements, including improvements in signal coverage, signal quality and network capacity, in Nevada.

## **II. PROJECTED HIGH-COST SUPPORT AND COST OF PROPOSED IMPROVEMENTS**

The projected cell site construction costs are based on an average cost per cell site of approximately \$ . In addition to construction costs for the planned new cell sites, the spreadsheet attached as Appendix 2 includes necessary capital expenditures to accommodate the new cell sites, including switching, telco, adjunct platform costs, software upgrades, and associated ongoing operations and maintenance expenses.

## **III. ESTIMATED POPULATION THAT WILL RECEIVE IMPROVED COVERAGE AND CAPACITY**

Based on Commnet's analysis of the predicted coverage resulting from the proposed network improvements, Commnet estimates that its improvements will benefit approximately 60,148 Nevada residents, based on Census 2000 block data.

## **IV. INCREMENTAL NATURE OF PROPOSED IMPROVEMENTS**

Some, if not all, of the network improvements proposed in this five-year plan would not be undertaken in the absence of federal high-cost support, and the proposed expenditures are over and above what would be budgeted in the absence of such support. Commnet's available cell site capital for new coverage is constrained by funding for critical capacity and coverage that is needed to support current usage, as well as new initiatives required to keep up with carrier demands (*e.g.*, new product deployments like CDMA 1XEVDO, UMTS deployment, LTE, as well as any other unforeseen technology deployments).

Commnet believes that additional cell site construction is needed for "fill-in" cell sites to eliminate "dead zones" and to add capacity to meet customer demand to provide high-quality service throughout its proposed ETC service area. Commnet intends to use drive testing and customer feedback to identify "dead zones" within its proposed ETC designated area so that

future investments can be made to build a seamless network. That level of coverage cannot be provided without support throughout much of Commnet's proposed ETC designated area.

While Commnet has provided PUC Staff with a proposed 5-year buildout plan, network improvement predictions more than 24 months in advance are of limited reliability because demand for wireless service and business conditions change rapidly.

## **V. TABLE OF ATTACHMENTS FOR FIVE-YEAR NETWORK IMPROVEMENT PLAN**

**Appendix 1:** List of Proposed Sites with Estimated Start and End Dates [Redacted]

**Appendix 2:** Spreadsheet Detailing Costs of Proposed Network Improvements [Redacted]

**APPENDIX 1: List of Proposed Sites with Estimated Start and End Dates  
(Confidential - Filed Under Seal with the Commission)**

**APPENDIX 2: Spreadsheet Detailing Costs of Proposed Network Improvements  
(Confidential - Filed Under Seal with the Commission)**

## **ATTACHMENT B**

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# CTIA

## Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

### THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

#### ONE

##### DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

#### TWO

##### MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map



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usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

### THREE

#### **PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE**

**W**hen a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

### FOUR

#### **ALLOW A TRIAL PERIOD FOR NEW SERVICE**

**W**hen a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

### FIVE

#### **PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING**

**I**n advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

### SIX

#### **SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS**

**O**n customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

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## SEVEN

### **PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE FOR CHANGES TO CONTRACT TERMS**

Carriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

## EIGHT

### **PROVIDE READY ACCESS TO CUSTOMER SERVICE**

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

## NINE

### **PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS RECEIVED FROM GOVERNMENT AGENCIES**

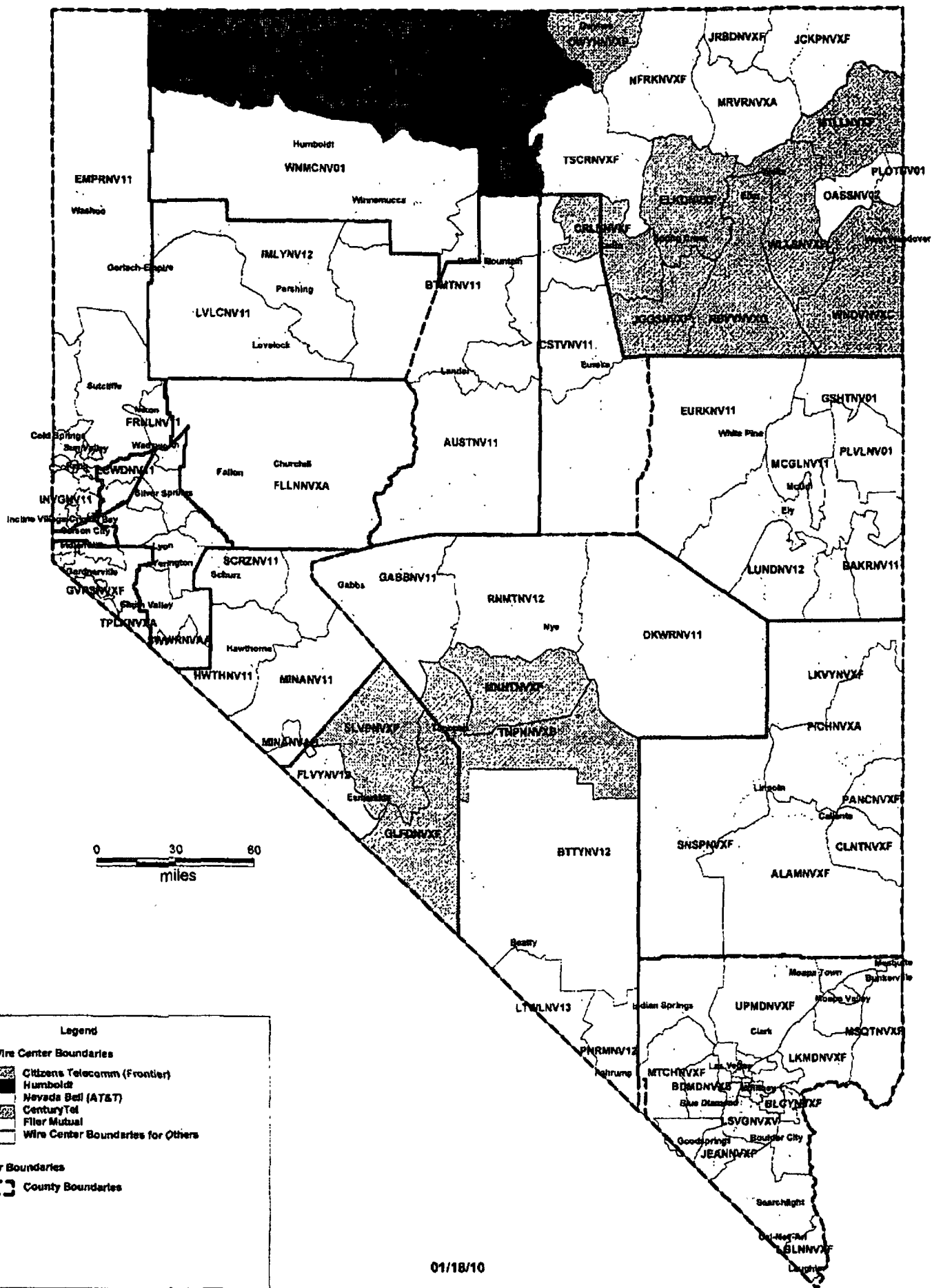
Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

## TEN

### **ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY**

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

## **ATTACHMENT C**



**List of Rural and Non-Rural Wire Centers In Which  
Commnet Seeks ETC Designation**

**Rural Wire Centers**

PRVYNV11  
MCDRNV11  
ORVDNVXA  
DENONV02  
MTLLNVXF  
TNPHNVXB  
WLLSNVXF  
WNDVNVXC  
RBVYNVXG  
SLVPNVXF  
CRLNNVXF  
ELKONVXF  
GLFDNVXF  
JGGSNVXF  
MNHTNVXF  
OWYHNVXF  
JCKPNVXF  
HWTHNV11  
SCRZNV11

**Non-Rural Wire Centers**

WNMCNV01  
LVLCNV11  
IMLYNV12  
BTMTNV11  
CSTVNV11  
AUSTNV11  
EURKNV11  
RNMTNV12  
GABBNV11  
MINANV11  
LTWLVN13  
BTTYNV12  
FLVYNV12

**PROOF OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by electronic mail to the recipient's current electronic mail address and mailing a copy thereof, properly addressed to:

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DATED at Carson City, Nevada, on the 3rd day of March, 2010.

  
An employee of the Public Utilities  
Commission of Nevada